

TWENTY-SEVENTH DAY
(Wednesday, March 11, 1987)

The Senate met at 11:00 a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Johnson, Jones, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Tejeda, Truan, Uribe, Washington, Zaffirini.

Absent-excused: Whitmire.

A quorum was announced present.

Senate Doorkeeper Jim Morris offered the invocation as follows:

God of Peace and Lord of our lives, we thank You for all those persons who have been a part of our lives—friends, co-workers, bosses and strangers. Grant to each of them faith, strength and a steadfast hope in the future.

In Your Son's name we pray, Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Whitmire was granted leave of absence for today on account of important business on motion of Senator Brooks.

REPORTS OF STANDING COMMITTEES

Senator McFarland submitted the following report for the Committee on Criminal Justice:

C.S.S.B. 43

Senator Uribe, Vice-Chairman, submitted the following report for the Committee on Health and Human Services:

S.B. 525

S.B. 432

Senator Caperton submitted the following report for the Committee on Jurisprudence:

S.B. 664

Senator Parmer submitted the following report for the Committee on Intergovernmental Relations:

S.B. 426

H.B. 39

H.B. 652

S.B. 333

S.B. 395

C.S.S.B. 103

C.S.S.B. 354

Senator Edwards submitted the following report for the Committee on Nominations:

We, your Committee on Nominations, to which were referred the attached appointments, have had same under consideration, and report them back to the Senate for final consideration.

To be CHIEF JUSTICE, COURT OF APPEALS, FIFTH SUPREME JUDICIAL DISTRICT: Judge Craig Trively Enoch, Dallas County.

To be a Member of the TEXAS BOARD OF HEALTH: Raleigh R. White IV, M.D., Bell County.

To be a Member of the TEXAS BOARD OF HEALTH, NURSING HOME ADMINISTRATOR POSITION: Don L. Brewer, Rockwall County.

To be a Member of the TEXAS BOARD OF HEALTH, CHIROPRACTIC POSITION: Dr. Oliver Roy Smith, Jr., El Paso County.

To be a Member of the TEXAS COMMISSION FOR THE BLIND: C. Robert Keeney, Jr., Harris County.

MESSAGE FROM THE HOUSE

House Chamber
March 11, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 156, Relating to the issuance of parking permits for disabled persons.

H.B. 169, Relating to immunity for the reporting of child abuse.

H.B. 254, Relating to the establishment of branch offices of county clerks for the purpose of issuing marriage licenses.

S.B. 251, Relating to contracts with private enterprises for the financing, construction, operation, maintenance, and management of correctional facilities. (Substituted and amended)

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions were introduced, read first time and referred to the Committee indicated:

S.C.R. 49 by Parker Education
Directing the Coordinating Board, Texas College and University System, to study faculty compensation packages at public institutions of higher education.

S.C.R. 50 by Barrientos Education
Establishing a special interim committee to study the problem of high school dropouts in Texas.

S.B. 789 by Farabee State Affairs
Relating to the management of temporary cash shortfalls in general revenue funds.

- S.B. 790** by Parmer Intergovernmental Relations
Relating to the purchasing practices of cities, counties, and school districts;
providing criminal penalties.
- S.B. 791** by Parker Education
Relating to student center fees at Lamar University.
- S.B. 792** by Parker Education
Relating to the exchange of certain property by Lamar University and the city of
Port Arthur.
- S.B. 793** by Parker Education
Relating to public education.
- S.B. 794** by Parker Education
Relating to proprietary schools; providing a civil penalty.
- S.B. 795** by Parker Education
Relating to physicians' educational loans and the abolition of the State Rural
Medical Education Board.
- S.B. 796** by Parker Education
Relating to the expenditure of constitutionally appropriated funds at Lamar
University at Port Arthur and Lamar University at Orange.
- S.B. 797** by Barrientos Health and Human Services
Relating to the creation and duties of the Interagency Council on Autism and
Pervasive Developmental Disorders.
- S.B. 798** by Barrientos Criminal Justice
Relating to awards made to certain claimants under the Crime Victims
Compensation Act.
- S.B. 799** by Parmer Jurisprudence
Relating to the requirement that the Industrial Accident Board prepare information
concerning the number and causes of employee injuries and deaths occurring each
year.
- S.B. 800** by Parmer Jurisprudence
Relating to the creation of a Law Enforcement Management Institute under the
direction of the Commission on Law Enforcement Officer Standards and
Education.
- S.B. 801** by Barrientos Natural Resources
Relating to certain studies that may be required by the Railroad Commission of
Texas.
- S.B. 802** by Barrientos Education
Relating to contracts by colleges and universities with health maintenance
organizations.
- S.B. 803** by McFarland Health and Human Services
Relating to controlled substances in emergency medication kits.
- S.B. 804** by McFarland Natural Resources
Relating to the reorganization, administration, powers, duties, and selection of the
board of directors of Dallas County Flood Control District No. 1; granting the power
of eminent domain.
- S.B. 805** by McFarland State Affairs
Relating to the height of auto transporters operated on public roads.

- S.B. 806** by McFarland State Affairs
Relating to the investment of state funds.
- S.B. 807** by McFarland Natural Resources
Relating to establishment of a state water pollution control financial assistance program and a water resources revenue bond program.
- S.B. 808** by Brooks, Johnson, Washington Health and Human Services
Relating to the establishment of a support program to assist mentally or developmentally disabled persons and their families; providing a penalty.
- S.B. 809** by Parker Education
Relating to requirement for accreditation for a school district.
- S.B. 810** by Parker Education
Relating to notification to parents of the lack of certification of teachers.
- S.B. 811** by Edwards Economic Development
Relating to the regulation of securities and fees related to regulation.
- S.B. 812** by Caperton Economic Development
Relating to required reserves of liability insurers.
- S.B. 813** by Caperton Economic Development
Relating to applicability of the Insurance Code to liability insurance and insurers.
- S.B. 814** by Armbrister Natural Resources
Relating to financial responsibility requirements for appliers of pesticides and herbicides.
- S.B. 815** by Armbrister State Affairs
Relating to the requirement that a person first obtain a license or permit before exercising any privilege regulated by the Alcoholic Beverage Code.
- S.B. 816** by Armbrister Economic Development
Relating to depreciation of foreclosed real estate.
- S.B. 817** by Armbrister Economic Development
Relating to the regulation of private banks.
- S.B. 818** by Armbrister Economic Development
Relating to the appointment of life insurance agents.
- S.B. 819** by Armbrister Health and Human Services
Relating to inspections of nursing homes.
- S.B. 820** by Armbrister Health and Human Services
Relating to the regulation of the manufacture and sale of certain foods, drugs, devices, and cosmetics.
- S.B. 821** by Johnson Jurisprudence
Relating to trial by special judge in certain cases.
- S.B. 822** by Johnson Jurisprudence
Relating to the assignment of visiting judges.
- S.B. 823** by Johnson Health and Human Services
Relating to the regulation of dental hygienists, and to the reorganization and continuation of the Dental Hygiene Advisory Committee as the Dental Hygiene Committee.

- S.B. 824** by Henderson Economic Development
Relating to bank loan fees.
- S.B. 825** by McFarland Natural Resources
Relating to the application of the standard of prudent operation in a suit for damages alleging waste.
- S.B. 826** by Farabee Health and Human Services
Relating to use of state-owned buildings for child day care.
- S.B. 827** by Farabee Health and Human Services
Relating to authorization for the Texas Employment Commission to provide information and technical assistance regarding child day care for public and private employees.
- S.B. 828** by Barrientos Education
Relating to a system to identify and track students who drop out of public school and to refer those students to appropriate schools and community services.
- S.B. 829** by Green Jurisprudence
Relating to incentive pay for certain sheriffs' deputies.
- S.B. 830** by Green State Affairs
Relating to exempting members of the state military forces from drivers licensing requirements when operating official motor vehicles in performing military duties.
- S.B. 831** by Green Intergovernmental Relations
Relating to the creation of a grievance procedure for certain civil service employees in certain municipalities.
- S.B. 832** by Green Education
Relating to the destruction of criminal history information obtained by institutions of higher education when filling security-sensitive positions; and declaring an emergency.
- S.B. 833** by Green Education
Relating to the appraisal of teachers for career ladder assignment purposes.
- S.B. 834** by Green State Affairs
Relating to licensing of commercial driver-training schools and instructors.
- S.B. 835** by Green Education
Relating to the size of certain public school classes and the number of students assigned to certain public school teachers.
- S.B. 836** by Green Criminal Justice
Relating to search warrants in cases involving certain offenses against a child.
- S.B. 837** by Green Intergovernmental Relations
Relating to the authority of cities and counties to regulate the location of certain sexually oriented commercial enterprises.
- S.B. 838** by Green Criminal Justice
Relating to the offense of promotion of child pornography.
- S.B. 839** by Green Criminal Justice
Relating to the admissibility of certain evidence in the prosecution of the offense of wholesale promotion and possession of obscene material or an obscene device.
- S.B. 840** by Sims Natural Resources
Relating to the term of office of elected public weighers.

- S.B. 841** by Caperton Jurisprudence
Relating to the jurisdiction of the supreme court in certain civil cases.
- S.B. 842** by Caperton Jurisprudence
Relating to the adoption of the Uniform Premartial Agreement Act.
- S.B. 843** by Parker Intergovernmental Relations
Relating to the county enforcement of overweight vehicle provisions.
- S.B. 844** by Parker Economic Development
Relating to workers' compensation insurance experience rating.
- S.B. 845** by Caperton Natural Resources
Relating to the administration of certain interests in certain state lands by the Commissioner of the General Land Office and the School Land Board; authorizing penalties.
- S.B. 846** by Washington Health and Human Services
Relating to the exemption of acupuncture from laws regulating the practice of medicine.
- S.B. 847** by Caperton Jurisprudence
Relating to the obligation of certain landlords to maintain savings accounts for and to return security deposits of tenants.
- S.B. 848** by Washington Health and Human Services
Relating to the provision of mental health services to persons who are deaf or hearing impaired and to their families.
- S.B. 849** by Montford Economic Development
Relating to the practice of barbering and to the regulation of certain persons by the State Board of Barber Examiners.
- S.B. 850** by Caperton State Affairs
Relating to the date of abolishment of the public utility commission under the Texas Sunset Act.
- S.B. 851** by Truan State Affairs
Relating to the definition of authorized emergency vehicles.
- S.B. 852** by Caperton State Affairs
Relating to the chief engineer, director of research, and general counsel of the public utility commission.
- S.B. 853** by Truan Natural Resources
Relating to recovery of certain expenses incurred by the Texas Animal Health Commission.
- S.B. 854** by Caperton State Affairs
Relating to certain records and reports of utilities and rate-making or changing procedures.
- S.B. 869** by Johnson Economic Development
Relating to the rollback of liability insurance rates and a flexible rate system for determining liability insurance rates.

CO-AUTHOR OF SENATE BILL 167

On motion of Senator Lyon and by unanimous consent, Senator Henderson will be shown as Co-author of **S.B. 167**.

CO-AUTHOR OF SENATE BILL 437

On motion of Senator Parker and by unanimous consent, Senator Anderson will be shown as Co-author of S.B. 437.

CO-AUTHOR OF SENATE BILL 438

On motion of Senator Parker and by unanimous consent, Senator Anderson will be shown as Co-author of S.B. 438.

CO-AUTHOR OF SENATE BILL 601

On motion of Senator Santiesteban and by unanimous consent, Senator Truan will be shown as Co-author of S.B. 601.

GUEST PRESENTED

Senator Armbrister was recognized and introduced the Capitol Physician for the Day, Dr. Harold High of Cuero.

The Senate welcomed Dr. High and expressed appreciation for his service.

SENATE CONCURRENT RESOLUTION 51

Senator Truan offered the following resolution:

S.C.R. 51, Inviting the Honorable C. Everett Koop, M.D., U.S. Surgeon General, to address a Joint Session of the 70th Legislature on Thursday, March 26, 1987, at 9:30 a.m.

BROOKS
TRUAN
WASHINGTON
JOHNSON

The resolution was read.

On motion of Senator Truan and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

SENATE RESOLUTION 161

Senator Lyon offered the following resolution:

WHEREAS, On Wednesday, March 11, 1987, proud residents of Tyler, Texas, will once again celebrate "Tyler Day" at the State Capitol; and

WHEREAS, Community spirit is especially high in Tyler during this happy celebration for the citizens of this beautiful area have made it one of the most dynamic cities in the State of Texas; and

WHEREAS, The rose is our country's official national flower and Tyler is known as the "Rose Capital of the World"; home of the nation's largest municipal rose garden, the Tyler area supplies more than one-half of the rose bushes grown in the United States; and

WHEREAS, Located on rolling hills in the Piney Woods, this fertile agricultural section of East Texas has developed into a major shipping point for fruits and truck crops; extensive railroads, machine shops, and other industries, including manufacturing of woodwork, furniture, clothing, fertilizers, cottonseed oil milling, and various types of food processing plants, have each played a vital role in the growth of this city; and

WHEREAS, Renowned for the beauty of its scenery and the charm of its citizens, Tyler has become a mecca for tourists; thousands of visitors come each spring for the Azalea Trail and for the Rose Festival in the autumn and to enjoy area lakes and Tyler State Park; and

WHEREAS, A leading medical center, Tyler's educational facilities include The University of Texas at Tyler, Tyler Junior College, and Texas College; and

WHEREAS, A major commercial, shipping, financial, and distribution city in East Texas and an administrative and operations center for East Texas petroleum products, Tyler has made significant contributions to the economy of Texas; and

WHEREAS, It is appropriate that the Texas Senate recognize Tyler and its citizens for exceptional accomplishments and distinctive achievements; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 70th Legislature, designate March 11, 1987, as "Tyler Day" and join the citizens of Tyler in paying tribute to their city on Tyler Day; and, be it further

RESOLVED, That a copy of this resolution be prepared for the City of Tyler in recognition of this grand occasion and as an expression of congratulations from the Texas Senate.

The resolution was read and was adopted viva voce vote.

GUESTS PRESENTED

Senator Lyon introduced a large delegation of Tyler residents seated in the gallery.

The Senate extended a welcome to them.

SENATE RESOLUTION 162

Senator Lyon offered the following resolution:

WHEREAS, Royce E. Wisenbaker, a highly respected resident of Tyler, Texas, has established an outstanding record of service to his community and his state; and

WHEREAS, A native Texan, Mr. Wisenbaker attended public school in Mineola and was graduated from Texas A&M University in 1939 with a bachelor of science degree in agricultural engineering and in 1940 with a master's degree in sanitary engineering; and

WHEREAS, This patriotic individual admirably served his country as a second lieutenant in the United States Army for five years during World War II; he later maintained his Army Reserve status and retired as a full colonel in 1969; and

WHEREAS, In 1947, Mr. Wisenbaker and Robert E. Fix formed a partnership and began a consulting engineering practice which lasted for 38 years; they supervised construction of more than two billion dollars worth of waterworks and sewerage projects, streets, airports, industrial waste facilities, water reservoirs and transmission lines, and municipal planning; and

WHEREAS, In addition to engineering activities, Mr. Wisenbaker and his partners were engaged in many other far-ranging business activities and interests; since leaving the practice of engineering, he has devoted his efforts to oil and gas interests with the Wisenbaker Production Company and with the Southern Utilities Company, which provides water to areas in Smith, Tarrant, and Dallas counties; and

WHEREAS, In addition to his professional commitments, Mr. Wisenbaker is involved in many civic activities; he has been active in Tyler with the Masonic Lodge #1233, the Sharon Temple, the East Texas Chamber of Commerce, the Tyler Chamber of Commerce, and the Volunteer Council of Rusk Hospital; and

WHEREAS, Recognized for his leadership ability, Mr. Wisenbaker is a past president of the Tyler Young Men's Christian Association, the East Texas Area Council of the Boy Scouts of America, Goodwill Industries, and the board of directors of the Smith County Youth Foundation; and

WHEREAS, His dedication to Texas A&M University has been unsurpassed; originator of the President's Scholarship Program, he has generously given five endowments to the program, and because of his efforts, the program now has more than 450 endowed scholarships and has been copied by 47 colleges and universities; and

WHEREAS, The only person ever to serve as president of the Association of Former Students and The Aggie Club, he is also the originator of The Century Club at Texas A&M; and

WHEREAS, His outstanding contributions were recognized by the Board of Regents of Texas A&M University which named a new engineering research center in his honor; and

WHEREAS, A committed Christian, Mr. Wisenbaker is an active member and elder of the First Presbyterian Church and a member of the board of trustees for the Texas Presbyterian Foundation; and

WHEREAS, This distinguished gentleman has been the recipient of numerous awards and honors including the Outstanding Service Award for the National Association of Mental Health, the Outstanding Humanitarian Award from the citizens of Rusk, the State Health Board Award, the Commissioner's Award from the Texas Department of Mental Health and Mental Retardation, the Silver Beaver from the Boy Scouts of America, and the Distinguished Alumnus Award from Texas A&M University; and

WHEREAS, Mr. Wisenbaker is recognized as a devoted family man and has shared 43 years of happiness with his wife, Clorinda (Petey) M. Wisenbaker; his four children, Susan Mary Spies, Paula Marlene Whisenant, Elizabeth Ann Robinson, and Royce E. Wisenbaker, Jr.; and his nine grandchildren, who are a constant source of pleasure to him; and

WHEREAS, This illustrious Texan has made countless contributions to the State of Texas that are worthy of legislative recognition; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 70th Legislature, honor Royce E. Wisenbaker for his outstanding achievements and extend to him best wishes for continued happiness and success; and, be it further

RESOLVED, That an official copy of this resolution be prepared for Mr. Wisenbaker as an expression of highest esteem from the Texas Senate.

The resolution was read.

On motion of Senator Edwards and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Lyon and by unanimous consent, the resolution was considered immediately and was adopted by a rising vote of the Senate.

GUESTS PRESENTED

Senator Lyon introduced Mr. and Mrs. Wisenbaker, seated at the President's Rostrum.

At the request of the President, Mr. Wisenbaker addressed the Senate and introduced his family seated on the floor of the Senate.

SENATE RESOLUTION 179

Senator Zaffirini offered the following resolution:

S.R. 179, Extending welcome to Professor John R. Bauer and students from The University of Texas at San Antonio.

The resolution was read and was adopted viva voce vote.

GUESTS PRESENTED

Senator Zaffirini introduced Professor Bauer and students seated in the gallery.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas
March 10, 1987

**TO THE SENATE OF THE SEVENTIETH LEGISLATURE,
REGULAR SESSION:**

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

**TO BE A MEMBER OF THE TEXAS BOARD OF HEALTH, PHARMACIST
POSITION:**

For a term to expire February 1, 1993:

BARBARA T. SLOVER
7824 S. Freeway
Fort Worth, Texas 76134

Mrs. Slover is being reappointed.

TO BE A MEMBER OF THE TEXAS TURNPIKE AUTHORITY:

For a term to expire February 15, 1991:

ED PALM
910 Houston
Suite 310
Fort Worth, Texas 76102

Mr. Palm will be replacing Walter Mischer, Jr., of Houston whose term expired February 15, 1985.

Respectfully submitted,

/s/W. P. Clements, Jr.
William P. Clements, Jr.
Governor of Texas

SENATE RULE 103 SUSPENDED

On motion of Senator Harris and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Economic Development might consider tomorrow at 9:00 a.m. the following bills:

S.B. 812
S.B. 813

**COMMITTEE SUBSTITUTE SENATE BILL 24
ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.B. 24, Relating to offenses relating to hazing at or in connection with an educational institution; providing criminal penalties. (Submitted by Governor as an emergency matter)

The bill was read second time.

Senator Barrientos offered the following amendment to the bill:

Amend C.S.S.B. 24 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Sections 4.01 through 4.50, Education Code, as amended, are designated as Subchapter A, Chapter 4, Education Code, and that chapter is amended by adding a subchapter designation immediately after the chapter heading to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS

SECTION 2. Chapter 4, Education Code, as amended, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. HAZING

Sec. 4.51. **DEFINITIONS.** In this subchapter:

- (1) "Educational institution" includes a public or private:
 - (A) high school; or
 - (B) college, university, or other postsecondary educational establishment.
- (2) "Pledge" means any person who has been accepted by, is considering an offer of membership from, or is in the process of qualifying for membership in an organization.
- (3) "Pledging" means any action or activity related to becoming a member of an organization.
- (4) "Student" means any person who:
 - (A) is registered in or in attendance at an educational institution;
 - (B) has been accepted for admission at the educational institution where the hazing incident occurs; or
 - (C) intends to attend an educational institution during any of its regular sessions after a period of scheduled vacation.
- (5) "Organization" means a fraternity, sorority, association, corporation, order, society, corps, cooperative, club, or service, social, or similar group, whose members are primarily students at an educational institution.
- (6) "Hazing" means any intentional, knowing, or reckless act, occurring on or off the campus of an educational institution, by one person alone or acting with others, directed against a student, that endangers the mental or physical health or safety of a student for the purpose of pledging, being initiated into, affiliating with, holding office in, or maintaining membership in any organization whose members are or include students at an educational institution. The term includes but is not limited to:
 - (A) any type of physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity;
 - (B) any type of physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, calisthenics, or other activity that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student;
 - (C) any activity involving consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance which subjects the student to an unreasonable risk of harm or which adversely affects the mental or physical health or safety of the student;
 - (D) any activity that intimidates or threatens the student with ostracism, that subjects the student to extreme mental stress, shame, or humiliation, or that adversely affects the mental health or dignity of the student or discourages the student from entering or remaining registered in an educational

institution, or that may reasonably be expected to cause a student to leave the organization or the institution rather than submit to acts described in this subsection;

(E) any activity that induces, causes, or requires the student to perform a duty or task which involves a violation of the Penal Code.

Sec. 4.52. PERSONAL HAZING OFFENSE. (a) A person commits an offense if the person:

(1) engages in hazing;

(2) solicits, encourages, directs, aids, or attempts to aid another in engaging in hazing;

(3) intentionally, knowingly, or recklessly permits hazing to occur;

or

(4) has firsthand knowledge of a specific hazing incident involving a student in an educational institution and fails to report said knowledge in writing to the dean of students or other appropriate official of the institution.

(b) The offense of failing to report is punishable by a fine not to exceed \$1,000, confinement in county jail for not more than 180 days, or both such fine and confinement.

(c) Any other offense under this section which does not cause serious bodily injury to another is punishable by a fine of not less than \$500 nor more than \$1,000, confinement in county jail for not less than 90 days nor more than 180 days, or both such fine and confinement.

(d) Any other offense under this section which causes serious bodily injury to another is punishable by a fine of not less than \$1,000 nor more than \$5,000, confinement in county jail for not less than 180 days nor more than one year, or both such fine and confinement.

(e) Any other offense under this section which causes the death of another is punishable by a fine of not less than \$5,000 nor more than \$10,000, confinement in county jail for not less than one year nor more than two years, or both such fine and confinement.

(f) Except when an offense causes the death of a student, in sentencing a person convicted of an offense under this section, the court may require the person to perform community service, subject to the same conditions imposed on community service probationers by Subdivision (1), Subsection (e), and Subsections (c), (d), (g), and (h) of Section 10A, Article 42.12, Code of Criminal Procedure, for an appropriate period of time in lieu of confinement in county jail or in lieu of a part of the time the person is sentenced to confinement in county jail.

Sec. 4.53. ORGANIZATION HAZING OFFENSE. (a) An organization commits an offense if the organization condones or encourages hazing or if one or more of the members, pledges, or alumni of the organization commits or assists in the commission of hazing.

(b) An offense under this section is punishable by a fine of not less than \$5,000 nor more than \$10,000, or if a court finds that the offense caused personal injury, property damage, or other loss, the court may sentence the organization to pay a fine of not less than \$5,000 nor more than double the amount lost or expenses incurred because of such injury, damage, or loss.

Sec. 4.54. CONSENT NOT A DEFENSE. It is not a defense to prosecution of an offense under this subchapter that the person against whom the hazing was directed consented to or acquiesced in the hazing activity.

Sec. 4.55. IMMUNITY FROM PROSECUTION AVAILABLE. In the prosecution of an offense under this subchapter, the court may grant immunity from prosecution for the offense to each person who is subpoenaed to testify for the prosecution and who does testify for the prosecution. Any person reporting a specific hazing incident involving a student in an educational institution to the dean

of students or other appropriate official of the institution is immune from liability, civil or criminal, that might otherwise be incurred or imposed as a result of the report. Immunity extends to participation in any judicial proceeding resulting from the report. A person reporting in bad faith or with malice is not protected by this section unless the court grants immunity from prosecution to such person because that person is subpoenaed to testify for the prosecution and does testify for the prosecution.

Sec. 4.56. OFFENSES IN ADDITION TO OTHER PENAL PROVISIONS. This subchapter does not affect or repeal any penal law of this state. Nothing in this subchapter shall limit or affect the right of an educational institution to enforce its own penalties against hazing.

Sec. 4.57. REPORTING BY MEDICAL AUTHORITIES. Treatment of a student who may have been subjected to hazing activities may be reported to police or other law enforcement officials, and the doctor or medical practitioner so reporting shall be immune from civil suit or other liability that might otherwise be imposed or incurred as a result of the report, unless the report is made in bad faith or with malice.

Sec. 4.58. PUBLICATION OF SUBCHAPTER. (a) Each postsecondary educational institution shall cause to be published or distributed to each student during the first three weeks of each semester a summary of the provisions of this subchapter.

(b) The institution shall publish or distribute in the same manner a list of organizations that have been disciplined for hazing or convicted for hazing on or off the campus of the institution during the previous three years.

(c) If the institution publishes a general catalogue, student handbook, or similar publication, it shall publish a summary of the provisions of this subchapter in each edition of that catalogue, handbook, or similar publication.

SECTION 3. Section 4.19, Education Code, is repealed.

SECTION 4. If any provision of this Act or its application to any person, entity, or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 5. This Act takes effect September 1, 1987, and applies only to the punishment for an offense committed under Subchapter B, Chapter 4, Education Code, on or after that date. An offense committed under Section 4.19, Education Code, before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted viva voce vote.

On motion of Senator Barrientos and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE SENATE BILL 24
ON THIRD READING**

Senator Barrientos moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 24 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Whitmire.

The bill was read third time and was passed viva voce vote.

**COMMITTEE SUBSTITUTE SENATE BILL 630
ON SECOND READING**

On motion of Senator Farabee and by unanimous consent, the regular order of business, Senate Rule 89 and all other necessary rules were suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 630, Relating to the Teacher Retirement System of Texas.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE SENATE BILL 630
ON THIRD READING**

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.S.B. 630 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Washington.

Absent-excused: Whitmire.

The bill was read third time and was passed viva voce vote.

SENATE BILL 534 ON SECOND READING

On motion of Senator Parker and by unanimous consent, the regular order of business, Senate Rule 89 and all other necessary rules were suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 534, Relating to limitations on foreign exchange teachers.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 534 ON THIRD READING

Senator Parker moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 534 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: Washington.

Absent-excused: Whitmire.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**MOTION TO PLACE SENATE BILL 409
ON SECOND READING**

Senator Farabee moved that Senate Rules 12 and 89 and all other necessary rules be suspended and that S.B. 409 be taken up for consideration at this time on its second reading and passage to engrossment:

S.B. 409, Relating to a parent's duty to support a child of the parent's child and the creation of a criminal offense for nonsupport of the child.

On motion of Senator Farabee and by unanimous consent, the motion to suspend the regular order of business was withdrawn.

MESSAGE FROM THE HOUSE

House Chamber
March 11, 1987

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 2, Relating to creation of the Select Committee on Tax Equity.

H.B. 317, Relating to parental consent for the marriage of certain minors.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator Edwards gave notice that he would tomorrow at the conclusion of Morning Call submit to the Senate for consideration nominations to agencies, boards and commissions of the State.

WELCOME AND CONGRATULATORY RESOLUTIONS

S.R. 181 - By Armbrister: Expressing appreciation to the Reverend Dr. L. Broadus.

S.R. 182 - By Armbrister: Extending welcome to Dr. Harold High, Capitol Physician for the Day.

S.R. 183 - By Armbrister: Expressing appreciation to Dr. Jesse DeLeon, Capitol Physician for the Day.

S.R. 184 - By Armbrister: Expressing appreciation to Dr. J. C. Burns, Capitol Physician for the Day.

S.R. 185 - By Armbrister: Expressing appreciation to Dr. Mike McBroom, Capitol Physician for the Day.

S.R. 186 - By Armbrister: Expressing appreciation to Dr. Bert D. Garrett, Capitol Physician for the Day.

S.R. 187 - By Armbrister: Expressing appreciation to Dr. Henry Lopez-Roman, Capitol Physician for the Day.

S.R. 188 - By Armbrister: Expressing appreciation to Dr. Roy Pendergraft, Capitol Physician for the Day.

S.R. 189 - By Armbrister: Expressing appreciation to Dr. David Watson, Capitol Physician for the Day.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 12:20 p.m. adjourned until 11:00 a.m. tomorrow.

APPENDIX

Sent to Governor
(March 11, 1987)

S.B. 149

Signed by Governor
(March 11, 1987)

H.C.R. 90

H.C.R. 86

H.C.R. 83

H.C.R. 24

TWENTY-EIGHTH DAY

(Thursday, March 12, 1987)

The Senate met at 11:00 a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Glasgow, Green, Harris, Henderson, Johnson, Jones, Krier, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Tejeda, Truan, Uribe, Washington, Zaffirini.

Absent-excused: Farabee, Leedom, Sims, Whitmire.

A quorum was announced present.

The Reverend Charlie Houston, Pastor, Gateway Baptist Church, San Antonio, offered the invocation as follows:

Father, I thank You for these, the ministers that You put into office for this 1987 session, and we're asking Your special anointing to be upon them. Father, they have some critical and some serious issues to consider for the State of Texas. Father, I pray that they might have godly wisdom and that there might be a righteousness, a light, a strength and courage upon this Senate that has been unlike any Senate the State of Texas has ever seen. Father, I pray that they might be of good to the people and at the end of this session we will know that Your hand has been upon them. Father, grant that the direction of this State might be a direction of godliness and wholesomeness—that Your ways might be confirmed and reestablished so the people of Texas might prosper through these Senators. We ask it in Christ Jesus' name. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.